

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) Chapter 11
)
Squirrels Research Labs LLC, *et al.*¹) Case No. 21- 61491
)
Debtors.) (*Jointly Administered*)
)
) Judge Tiiara N.A. Patton
)

**MOTION OF SQUIRRELS RESEARCH LABS LLC AND THE MIDWEST DATA
COMPANY LLC FOR ENTRY OF AN ORDER APPROVING COMPROMISE AND
SETTLEMENT WITH CINCINNATI INSURANCE COMPANY**

Squirrels Research Labs LLC (“SQRL”) and The Midwest Data Company LLC (“MWDC”, collectively with SQRL, the “Debtors”), by and through undersigned counsel, hereby submit this motion (the “Motion”) for the entry of an order, pursuant to Section 105 of Title 11 of the United States Bankruptcy Code (“Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure, to approve the settlement of a controversy between Debtors and Cincinnati Insurance Company (the “Defendant”). In support of this Motion, Debtors respectfully state the following:

JURISDICTION & VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 & 1334(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 & 1409. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

¹ The “Debtors” in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Squirrels Research Labs LLC (9310), case no. 21-61491 and The Midwest Data Company LLC (1213), case no. 21-61492.

BACKGROUND

2. On November 23, 2021 (the “Petition Date”) SQRL filed a voluntary petition for relief under Subchapter V of Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Northern District of Ohio (the “Bankruptcy Court”). SQRL’s case was jointly administered for procedural purposes with the Subchapter V case of The Midwest Data Company LLC under Case No. 21-61491.

3. As noted in SQRL’s Amended Plan of Liquidation [Docket #237] confirmed by Order of the Bankruptcy Court [Docket #269] (the “Confirmation Order”) and in MWDC’s Plan of Reorganization [Docket #170] confirmed by Order of the Bankruptcy Court [Docket #223], there was an industrial fire on July 15, 2021 (the “Fire”) at the Debtors’ 8050 Freedom Ave SW, North Canton, OH 44720 location (the “Facility”). As a result of the Fire, Debtors’ suffered damages from an interruption to business operations and damages to property of SQRL, and certain computer equipment and systems, owned by clientele of the Debtors, which were located on-site at the Facility were damaged (the “Claim”). The clientele whose property was damaged in the fire include: JS Mining and Alignment Engine. Based on its records, Debtors estimate the approximate replacement value of the damaged property owned by JS Mining to have been \$133,597.28 and the approximate replacement value of the damaged property owned by Alignment Engine to have been \$222,722.27.

4. At the time the Confirmation Order was entered, the Claim remained pending with Defendant. Pursuant to the confirmed plans, MWDC, as reorganized debtor, has the authority to resolve disputed claims without Court approval, while SQRL, as the Liquidating Debtor (as defined in the Amended Plan of Liquidation), has the authority to resolve disputed

claims or causes of action with Court approval and compliance with the Federal Rule of Bankruptcy Procedure 9019.

5. After the Confirmation Order was entered, on or about July 14, 2023, Debtors sued the Defendant in the Stark County Court of Common Pleas Case Number 2023CV01239 asserting counts for: (1) Breach of Contract, (2) Declaratory Judgment, and (3) Bad Faith Claims Handling (the “Litigation”) relating to coverage for physical damage and business interruption from the Fire at the Facility under that certain CGL and GL Policy No. EPP 057 45 07 (the “Policy”).

6. In the Litigation, Debtors asserted the Claim for failure to provide coverage or reimbursement under the Policy for damage to their own property, for equipment and systems owned by the Debtors’ clientele, and for their business interruption. Defendant asserts that the proof or documentation related to such losses was speculative and not sufficient to sustain the Claim. The Stark County Court of Common Pleas referred the matter to mediation.

7. Through efforts at mediation, the Debtors and the Defendant reached a resolution, subject to this Court’s approval, that fully and finally resolves the Litigation, the Claim, and any and all other disputes, controversies, or causes of action related to the Litigation or the Claim on the terms summarized herein and more fully set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A (the “Settlement Agreement”).

8. In summary, under the Settlement Agreement, Defendant agrees to pay \$232,500 (the “Settlement Amount”) to the Debtors, representing \$175,000 for third party claims, \$40,000 for business interruption, and \$17,500 for damage to SQRL Property, and Debtors agree to dismiss all claims in the Litigation, and to the withdrawal of the lawsuit in Stark County Court of Common Pleas with prejudice. The Settlement Amount is to be paid by Defendant to Debtors’

counsel for further disbursement pursuant to an Order of this Court. Debtors propose to allocate the Settlement Amount as follows: \$175,000 to be disbursed from Debtors' counsel to JS Mining and Alignment Engine, pro rata on the basis of the replacement value of their property in Debtors' possession at the time of the Fire, and \$17,500 to the SQRL's Fund (as defined in the Amended Plan of Liquidation) representing the physical damage to SQRL's property. Finally, the \$40,000 attributable to damages for business interruption shall be paid \$15,000 to the SQRL's Fund and \$25,000 to MWDC.

9. The Debtors having analyzed and considered (a) causes of action against Defendant in the Litigation, (b) the defenses asserted by Defendant therein, (c) the Claim, and (d) the time, cost, and uncertainty of litigation, believe that the Settlement Agreement is fair and reasonable and in the best interest of the bankruptcy estate. Furthermore, the Settlement Agreement was negotiated in good faith and at arms-length, and the settlement is within the range of reasonableness considering the likely expense associated with litigation and proof of the Claim. Accordingly, Debtors asks this Court to approve the Settlement Agreement pursuant to Bankruptcy Rule 9019(a).

STATEMENT OF LAW

10. Compromises and settlements are a normal part of the bankruptcy process. *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968) (citing *Case v. Los Angeles Lumber Prods. Co.*, 308 U.S. 106, 130 (1939)). The structure and provisions of the Bankruptcy Code promote negotiation and settlement for the benefit of creditors in accordance with "the policy of the law generally [which is] to encourage settlements." *In re Jackson Brewing Co.*, 624 F.2d 599 (5th Cir. 1980). Resolution of claims through settlement furthers the goal of bankruptcy administration to liquidate estate assets as

rapidly as possible “consistent with obtaining the best of fruitless litigation.” *In re Carla Leather, Inc.*, 44 B.R. 457, 471 (Bankr. S.D.N.Y. 1984), *aff’d*, 50 B.R. 764 (S.D.N.Y. 1985).

11. Bankruptcy Rule 9019(a) permits this Court to approve settlements. Bankruptcy Rule 9019 provides:

(a) On motion by the trustee and after notice and a hearing the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

12. Neither Bankruptcy Rule 9019 nor any section of the Bankruptcy Code explicitly sets forth the standards by which a court is to evaluate a proposed settlement for approval. However, the standards for approval of settlements in bankruptcy cases are well established by caselaw and focus upon whether the proposed settlement is reasonable and in the best interests of creditors.

13. When reviewing settlements, this Court is not required “to decide the numerous questions of law and fact raised by [parties].” *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983), *cert. denied sub. nom. Cossuff v. Rodman*, 464 U.S. 822. “Instead, the Court will ... canvass the issues and see if the settlement falls below the lowest point in the range of reasonableness.” *In re Lawrence & Erasquin, Inc.*, 124 B.R. 37, 38 (Bankr. N.D. Ohio 1990); see *In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522-23 (S.D.N.Y. 1993); *In re Crowthers McCall Pattern, Inc.*, 120 B.R. 279, 287 (Bankr. S.D.N.Y. 1990); *Carla Leather*, 44 B.R. at 470. The assessment of a settlement only requires identification of the issues in controversy “so that the Court can make an informed decision on the reasonableness of the settlement.” *Lawrence*, 124 B.R. at 38.

14. In considering a proposed settlement, a court is guided by a lenient standard consistent with the theory that “little would be saved by the settlement process if bankruptcy courts [had to conduct] … an exhaustive investigation and determination of the underlying claims in order to approve a settlement.” *Purofied Down Prods.*, 150 B.R. at 522-23. In *Carla Leather*, the court explained the policy underlying the abbreviated review of settlements under Rule 9019 as follows:

The very uncertainties of outcome in litigation, as well as the avoidance of wasteful litigation and expense, lay behind the Congressional infusion of a power to compromise … This could hardly be achieved if the test on hearing for approval meant establishing success or failure to certainty.

44 B.R. at 470; *see also Purofied Down Prods.*, 150 B.R. at 522-23.

15. In evaluating a settlement’s propriety, this Court need not conduct a trial or even a “mini-trial” on the merits to actually resolve the exact factual and legal issues. Rather, this Court should simply consider whether against the background of those issues, the settlement is reasonable. *Newman v. Stein*, 464 F.2d 689, 692 (2d Cir. 1972), *cert. denied sub nom. Benson v. Newman*, 409 U.S. 1039 (1972); *see also In re Int’l Distribution Ctrs. Inc.*, 103 B.R. 420, 423 (S.D.N.Y. 1991); *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 493, 496-97 (Bankr. S.D.N.Y. 1991) (hereinafter “*Drexel I*”). In so doing, this Court may consider the settlement in the context of its familiarity with the history of the case, the complexity of the claims alleged, the parties, and the context in which the claims and the settlement arose. *See Anderson*, 390 U.S. at 444; *Purofied Down Prods.*, 150 B.R. at 524; *Int’l Distribution Ctrs.*, 103 B.R. at 423.

16. The settlement evaluation process is not designed to substitute this Court’s judgment for that of the trustee or debtor in possession. *See Carla Leather*, 44 B.R. at 465. While this Court is not expected to “rubber stamp” the proposed settlement, *In re Ionosphere*

Clubs, Inc., 156 B.R. 414, 426 (S.D.N.Y. 1993), this Court should give considerable weight to the parties informed judgment that a compromise is fair and equitable. *See Anderson*, 390 U.S. at 444; *Int'l Distribution Ctrs.*, 103 B.R. at 423; *Drexel I*, 134 B.R. at 496; *Carla Leather*, 44 B.R. at 472.

17. This Court is bestowed with broad discretion to approve settlements that fall within the range of reasonableness. *Purofied Down Prods.*, 150 B.R. at 523; *In re Texaco, Inc.*, 84 B.R. 893, 901 (Bankr. S.D.N.Y. 1988). The proposed settlement need not be ideal, but merely above the lowest in the range of reasonableness under the circumstances. *See W.T. Grant*, 699 F.2d at 613-14; *Newman*, 464 F.2d at 693; *Purofied Down Prods.*, 150 B.R. at 523-24 (district court affirmed approval of a settlement that although not ideal, “did not fall below the lowest point in the range of reasonableness”). This concept of “range of reasonableness” recognizes “the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent to taking any litigation to completion.” *Newman*, 464 F.2d at 693.

18. In deciding whether a settlement should be approved, courts have reviewed proposed settlements based upon a consideration of some or all of the following factors:

- (i) the probability of success in litigation;
- (ii) the difficulties, if any, in collecting any judgment that might be rendered;
- (iii) the complexity of the litigation involved and the expense, inconvenience, and delay attendant to the litigation; and
- (iv) the paramount interests of the creditors with proper deference to their reasonable views.

Lawrence, 124 B.R. at 38 (citing *In re Bell & Beckwith*, 93 B.R. 569, 574 (Bankr. N.D. Ohio 1988)); *see also In re Parkview Hospital-Osteopathic Med. Ctr.*, 211 B.R. 603, 608 (Bankr. N.D. Ohio 1997).

CONSIDERATION OF THE FACTORS

19. The Settlement Agreement is fair, reasonable, and in the best interest of the estate.

In comparison, without settlement, the estate would incur substantial time and expense litigating the disputed factual and legal issues raised in the Litigation. The factual issues are heavily disputed. Expert discovery and testimony would likely be required to prove the extent of damages to physical property and for business interruption. The cost and expense of the needs of continued litigation would be required to be borne by the liquidating estate in the absence of a settlement.

20. Although SQRL is confident that its Claim has merit and that it would ultimately prevail in the Litigation, SQRL believes that the time, expense, inherent risks associated with litigating its Claim, support SQRL's decision to reach the resolution described above. SQRL believes that the Settlement Agreement is reasonable and in the best interest of the estate.

CONCLUSION

WHEREFORE, SQRL respectfully asks this Court to enter the Order, attached as **Exhibit B**, granting the relief sought herein and granting such other and further relief as the Court deems appropriate.

Dated: April 9, 2024

Respectfully submitted,

/s/ Julie K. Zurn _____

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CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2024, a true and correct copy of the **MOTION OF SQUIRRELS RESEARCH LABS LLC AND THE MIDWEST DATA COMPANY LLC FOR ENTRY OF AN ORDER APPROVING COMPROMISE AND SETTLEMENT WITH CINCINNATI INSURANCE COMPANY**, was served via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail

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